

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

MA & UD Department – HMDA – Land Acquisition – Acquisition of land to an extent of Acs.9-14 Gnts in Sy.No.26,30,41 to 44 of Ameerpet Village & Mandal, Hyderabad District for the construction of district commercial complex – withdraw from the acquisition of lands under Section 48 (1) of the Land Acquisition Act – Orders – Issued.

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MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT DEPARTMENT

G.O.Ms.No. 288,

Dated: 15.07.2010.

Read the following:

1. From Dr. G.N. Naidu and 9 others Representation Dated:25.01.2010.
2. From Smt. K. Vijaya Kumari W/o Late Sri Kommineni Seshagiri Rao Representation Dated:28.01.2010.
3. From the Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, Hyderabad Lr.No.LA/17/2010, Dated: 29.03.2010.

ORDER:

Smt. K. Vijaya Kumari W/o Late K. Seshagiri Rao and Dr. G.N. Naidu and 9 others in the references first and second read above, inter alia have represented that they have made representations to the Government for withdrawal of acquisition proceedings of their lands based on the similar case of Sri P. Someswara Rao whose land was de-notified on the ground of hardship. They have stated that Government did not consider their representations and rejected erroneously on the ground that the subject land has been in the possession of the HUDA since 10.05.2004 and there is no provision under Land Acquisition Act to re-convey the acquired land once the possession has been taken. Further they have informed that said rejection order is illegal and untenable for the following reasons/grounds:

- i. They never sought for re-conveyance of their lands under acquisition as the possession of these lands were indisputably with them as on the date of submitting their original representation dated.12.09.1996 and even now the lands under acquisition are in their physical possession and enjoyment.
- ii. As per sections 48 (1) of the Land Acquisition Act the Govt. shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. In their case by the time they made representations on 12.09.1996 to the Govt. seeking to delete lands from acquisition, the possession of land was with them. But the Govt. did not choose to consider their representation dated.12.09.1996 at that time when the possession was indisputably with them.
- iii. The Govt. has acted in a discriminatory manner in rejecting representation for deleting lands from acquisition while considering the representation of P. Someshwar Rao and deleted his land Acr.3-01 Gts., from acquisition though their case also stands on the same footing as that of the said P. Someshwar Rao.
- iv. The land is acquired for a public purpose viz., for construction of District Commercial Complex at Ameerpet. In fact the District Commercial Complex had come into existence by name Mytrivanam long ago. There was no proposal for any construction in the land in dispute.

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2. They have, therefore, requested the Government to re-consider their representation dated.12.09.1996 and delete their lands in Sy.No.26, 30, 41 to 44 of Ameerpet Village & Mandal, Hyderabad District from acquisition on par with other similar cases.

3. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority in the letter third read above among other things, has reported that on requisition made by HUDA for acquiring certain lands for construction of District Commercial Complex at Ameerpet (V), the Draft Notification to an extent Acs. 12-15 Gts in Sy.Nos.3,5,26/P, 30/P, 41 to 44 U/s. 4(1) was published in the A.P.Gazette No.337 dated.22.04.1987 and Draft Declaration U/s. 6 of the Land Acquisition Act, was published in A.P.Gazette No.Hyderabad-4, dated.30.01.1988. Some of land owners filed W.P.Nos.2201/88,2203/88 and 2720/88 before the Hon'ble High Court of A.P. and the High Court granted interim orders staying all further proceedings on 16.02.1988 and 24.02.1988. During the stay period, the owners/occupants illegally constructed the houses and apartments etc. An extent of Ac.3-01 gts of the land bearing Sy.Nos.3 & 5 of Ameerpet Village was withdrawn from acquisition vide G.O.Rt.No.937 MA & UD (II) Dept. dated.19.07.1991 and it was published in A.P.Gazette No.Hyderabad-16 dated.08.08.1991. All the 3 W.Ps 2201/88, 2203/88, 2720/88 were disposed off in favour of HUDA on 14.12.1995. While dismissing the above mentioned 3 W.Ps. regarding invoking the Sec.48 of the L.A. Act the Hon'ble Court has made observation that the power is wholly optional to be exercised by the Govt. at its own discretion, depending upon various facts in each case. After following all the statutory provisions of Land Acquisition Act, an award was passed vide award No.1/97, dated.01.02.1997 in file No.LA/47/86, acquiring the lands and the entire amount of compensation of Rs.70,08,243/- in respect of above acquired lands was deposited in the city Civil Court, Hyderabad U/s. 30 & 31 of the Land Acquisition Act. The possession of the above land could not be taken over due to status-quo orders issued by the Hon'ble Speaker of A.P. Legislative Assembly on 28.02.1997. Possession of open land to an extent 24882 Sq. Yds. (Ac.5.05½ gts) was taken over on 10.05.2004.

4. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority has also stated that Smt. Azia Khatoon and (25) others submitted representation to the Government on 07.01.2005 for re-conveyance of their land which was acquired in Sy.Nos.26, 30, 41 to 44 total extent Ac. 9.14gts. The Government have granted stay orders on 14.12.2005 and subsequently Govt. have disposed of the petitions and rejected the request of Azia Khatoon and others vide Lr.No. 23035/I1/2006, dated: 3.11.2006. Aggrieved by these orders Smt. Azia Khatoon and others approached Hon'ble High Court. Due to status quo and interim orders of Hon'ble High Court in W.P.M.P. No. 0085/07 of W.P.No.0060/07, W.P.M.P. No. 129/2010 in W.P.No. 124/2010 in respect of the building Door Nos. 7-1-451/15 to 22 in Sy.No. 42, 43 & 44 of Ameerpet (V) and WA No.3/2010 in respect land to an extent of 97157 Sq.Yards in Sy.No. 25 & 26 further action could not be taken by HMDA. However, Metropolitan Commissioner, Hyderabad Metropolitan Development Authority reported that the total land acquired to an extent of Ac. 9-14 gts in Sy.No. 26,30,41,42 & 44 is in the possession of HMDA.

5. Government have carefully examined the representations in the references first and second read above vis-a-vis the report of the Metropolitan Commissioner, Hyderabad Metropolitan Development Authority in the reference third read above and observe that after re-notification of the land, some of the land owners request was considered

and de-notified their land. The request of the applicants who were similarly situated, for de-notification of their land to the extent of Acrs.9-14 gnts., was not considered. Further the purpose of the land for which it was acquired will not be served as the land in question is not a single piece of land but is the sum total of different isolated pieces of land and cannot be used for the purpose of construction of District Commercial Complex i.e, for the purpose for which the land acquisition process was initiated. The possession of the land could not be taken by the HUDA within the stipulated time due to various reasons and orders of Hon'ble High Court and finally took possession of the land to an extent of Ac.5.05 ½ gnts. out of Ac.9.14 gnts on 10.05.2005 and could not take actual possession of the remaining land due to existence of structures. In view of the orders of Hon'ble High Court, Government have come to a conclusion that the possession of the land by HMDA comes under the category of symbolic possession as laid down by Hon'ble Supreme Court of India in the case of Balwant Narayan Bhgade V.M.D. Bhagwat (AIR 1975 SC 1767). It is, therefore, decided to withdraw the land of the applicants from the acquisition and to re-convey the same to the land owners, in supercession of the earlier orders of the Government in this regard in order to resolve a long standing litigation.

6. Accordingly, under the provisions of Section 48 (1) of the Land Acquisition Act, 1894, Government hereby decided to withdraw the land belonging to Smt. K. Vijayakumari, Dr. G.N. Naidu and others to an extent of Acs.9-14 gnts. in Sy.Nos. 26, 30, 41, 42, 43 & 44 of Ameerpet Village and Mandal, Hyderabad District from acquisition proceedings.

7. These orders will be subject to final orders in the cases pending before the Hon'ble High Court and other Courts and withdrawal of further legal proceedings by the Petitioners. It is further ordered that there shall be no liability to the Government / HMDA on these lands and all such liabilities shall vest in the applicants/persons to whom the land is being reconveyed.

8. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority shall take necessary further action accordingly in the matter duly verifying the field situation, ownership / ULC and other aspects.

9. After due verification, Metropolitan Commissioner, Hyderabad Metropolitan Development Authority may submit necessary proposals to Government for publication of withdrawal notification in the Official Gazettee following the procedure as per Section 48 of the Land Acquisition Act, 1894 in the prescribed format.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.S. APPA RAO,
PRINCIPAL SECRETARY TO GOVERNMENT(UD)

To

The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, Hyderabad.

Copy to:

The P.S. to Prl. Secy. to Chief Minister.

P.S. to Minister for Municipal Administration.

P.S. to Prl. Secy. to Govt. MA & UD Dept.

Sf/Sc.

// FORWARDED :: BY ORDER //

SECTION OFFICER